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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

12 ANGELINA ATABEKOVA-
13 MICHAELIDIS, and VARDOUT
14 MICHAELIDOU; both individually and
as successors-in-interest to Decedent,
MELKON MICHAELIDIS.

15 || Plaintiffs.

16

17 CITY OF LOS ANGELES; BRYAN
18 MORALES; and DOES 1-10,
INCLUSIVE.

19 || Defendants.

Case No. 2:22-CV-05620-MCS-MAA
*[The Hon. Honorable District Judge,
Mark Scarsi, Magistrate Judge, Maria
A. Audero]*

**DEFENDANT OFFICER
MORALES' NOTICE OF MOTION
AND MOTION FOR SUMMARY
JUDGMENT OR,
ALTERNATIVELY, PARTIAL
SUMMARY JUDGMENT**

[Fed, R. Civ. P. 56]

[Filed concurrently with Defendant Officer Morales' Separate Statement of Uncontroverted Facts and Conclusion of Law; Declaration of Kayleigh Andersen; (Proposed) Order]

Date: July 24, 2023
Time: 9:00 a.m.
Dept.: 7C, 7th Floor

Trial Date: October 31, 2023
Complaint Filed: August 9, 2022

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that on July 24, 2023, at 9:00 a.m. or as soon
3 thereafter as the matter may be heard, in Courtroom 7C (7th Floor) of the above
4 entitled court (First Street Courthouse) located at 350 W. 1st Street, Courtroom 7C,
5 7th Floor, Los Angeles, California 90012, Defendant Officer Bryan Morales
6 (“Officer Morales”) will seek an Order from this Court granting Summary Judgment
7 or Adjudication in his favor and against Plaintiffs Angelina Atabekova-Michaelidis,
8 and Vardou Michaelidou; both individually and as successors-in-interest to
9 Decedent Melkon Michaelidis (collectively “Plaintiffs”) as to one or more causes of
10 action against him, pursuant to Federal Rules of Civil Procedure, Rule 56.

11 This Motion is based upon the grounds that there are no triable issues of
12 material fact and that moving defendants are entitled to judgment as a matter of law,
13 as follows:

14 **Issue 1:** Officer Morales is entitled to judgment in his favor as to
15 Plaintiffs’ First Cause of Action pursuant to 42 U.S.C. section 1983 for excessive
16 force because his use of deadly force was objectively reasonable under the totality
17 of the circumstances. *Graham v. Connor*, 490 U.S. 386 (1989).

18 **Issue 2:** In addition, Officer Morales is entitled to qualified immunity
19 because any mistakes of fact or law he may have made were reasonable, and his
20 actions did not violate clearly established law. *Saucier v. Katz*, 533 U.S. 194, 200
21 (2001); *Mullenix v. Luna*, 136 S. Ct. 305, 310 (2015).

22 **Issue 3:** Officer Morales is entitled to judgment in his favor as to
23 Plaintiffs’ Second Cause of Action pursuant to 42 U.S.C. section 1983 based on
24 denial of medical care because the uncontested facts establish that the Decedent
25 was provided medical aid and emergency medical personnel were immediately
26 requested to respond both at the scene of the initial vandalism incident at Decedent’s
27 residence and at the scene where the use of force occurred. In addition, there is no
28 evidence showing that Officer Morales violated any rights that were “clearly

1 established" at the time of the alleged violation, and he is therefore entitled to
2 qualified immunity.

3 **Issue 4:** Officer Morales is entitled to judgment in his favor as to
4 Plaintiffs' Third Cause of Action pursuant to 42 U.S.C. section 1983 based on denial
5 of familial relationship because there is no evidence that he acted with deliberate
6 indifference or with a purpose to harm unrelated to a legitimate law enforcement
7 objective. In addition, there is no evidence showing that Officer Morales violated
8 any rights that were "clearly established" at the time of the alleged violation, and he
9 is therefore entitled to qualified immunity.

10 **Issue 5:** The state claims – the seventh claim for battery and the eighth
11 claim for negligence – also fail as a matter of law because the force used by Officer
12 Morales was objectively reasonable under the circumstances. For the same reasons
13 that no constitutional violations were committed, no state torts were committed,
14 either. *See Martinez v. County of Los Angeles*, 47 Cal. App. 4th 334, 349-50 (1996).

15 **Issue 6:** Plaintiffs' ninth cause of action for violation of the Bane Act
16 (Civil Code §52.1) lacks merit because there is no evidence of any specific intent by
17 Officer Morales to violate the Decedent's constitutional rights. *Reese v. County of*
18 *Sacramento*, 888 F.3d 1030, 1043-1044 (9th Cir. 2018).

19 **Issue 7:** There is no merit to any punitive damages claims because: (a)
20 there is no evidence that Officer Morales acted with malice, oppression, or reckless
21 disregard toward the Decedent. *See Dang v. Cross*, 422 F.3d 800, 810 (9th Cir.
22 2005); *City of Newport v. Fact Concerts, Inc.*, 453 U.S. 247, 259-271 (1981).

23 This Motion will be based upon this Notice, the Memorandum of Points and
24 Authorities, the Declaration of Kayleigh Andersen and any exhibits attached thereto,
25 the Separate Statement of Uncontested Material Facts and Conclusions of Law,
26 all pleadings, records, and papers on file in this action, and upon such other oral and
27 documentary evidence as may be presented at the hearing of this Motion.

28 / / /

1 **NOTICE ON CONFERENCE OF COUNSEL PER LOCAL RULE:**

2 Prior to the filing of the motion, on June 5, 2023, defense counsel sent
3 Plaintiffs' counsel a comprehensive meet and confer letter inviting discussions
4 regarding the dispositive issues presented in the Motion; on June 8, 2023, the parties
5 met and conferred telephonically. The parties were unable to resolve the issues
6 informally. See Declaration of Kayleigh Andersen, ¶ 2.

7
8 DATED: June 16, 2023

**MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP**

10
11 By: /s/ Kayleigh A. Andersen
12 Eugene P. Ramirez
13 Kayleigh A. Andersen
14 Attorneys for Defendant, BRYAN
15 MORALES
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1 **STATE STATUTES**

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

3 Officer-involved shootings often originate from tense and volatile situations
4 where officers are forced to make split-second decisions to defend themselves and
5 the public they serve. On October 31, 2021, just after 5:00 p.m., neighbors called
6 911 about a crazed suspect, Melkon Michaelidis (“Michaelidis”), who was armed
7 with two knives, covered in blood, and roaming the street. According to one
8 witness, there was a “guy with a knife popping tires” and “coming up to people.” On
9 the surveillance video, Michaelidis is seen with his bloody hands using the knives to
10 stab tires and the hood of a moving car being driven by an unsuspecting driver.

11 The officers responded to the 911 calls and encountered Michaelidis in the
12 middle of a street wielding a large knife in each hand. Over the next few minutes,
13 Michaelidis refused to comply with the officers' numerous commands to drop the
14 knives. As the unpredictable situation unfolded, Michaelidis put down one knife and
15 got onto his knees, but still held the other 9.5 inch knife blade in his right hand.
16 Michaelidis then stood up from the ground holding the knife, which he then
17 transferred to his left hand. When Michaelidis started advancing toward the officers
18 in front of him, he had the knife in his left hand and his right index finger pointed
19 directly at the officers. Officer Morales, observing Michaelidis rapidly closing the
20 distance, was forced to make a split-second decision. Under the totality of the
21 circumstances, Officer Morales acted appropriately in response to an immediate
22 threat.

23 As the videos of the incident clearly demonstrate, Officer Morales' actions
24 were objectively reasonable under the totality of the circumstances.¹ First,

²⁶ ¹ *Scott v. Harris*, 550 U.S. 372 (2007), where the facts of a police interaction are
²⁷ captured on videotape, they may be deemed undisputed for purposes of ruling on a
²⁸ summary judgment motion.

1 Plaintiffs' federal claims are barred because the uncontested facts demonstrate
2 that Officer Morales' actions were reasonable as a matter of law pursuant to
3 *Graham v. Connor*, 490 U.S. 386 (1989) and were for a legitimate law enforcement
4 objective. Second, Officer Morales – one of four officers at the scene who perceived
5 Michaelidis to be an immediate threat – is entitled to qualified immunity, which
6 serves to protect officers from liability for mistakes of law, mistakes of fact, or
7 mistakes based on mixed questions of law and fact. *Pearson v. Callahan*, 555 U.S.
8 223, 230 (2009). Here, Plaintiffs cannot prove that “clearly established law”
9 prohibited Officer Morales from using the degree of force that he did in the specific
10 circumstances that he confronted. *O'Doan v. Sanford*, 991 F.3d 1027, 2037 (9th
11 Cir. 2021). Third, there is no denial of medical care claim as medical care was
12 summoned for Michaelidis at the initial vandalism call and immediately after the use
13 of force..

14 Finally, Plaintiffs assert no facts which would support state law claims for
15 battery, negligence, and violation of Cal. Civil Code § 52.1, nor have they adduced
16 facts that remove this incident outside California's broad statutory immunity
17 scheme.

18 Because Plaintiffs have failed to carry their burden demonstrating, through
19 admissible evidence, that they are entitled to relief on any of their claims, Defendant
20 Officer Morales' motion for summary judgment or, alternatively, partial summary
21 judgment should be granted. Fed. R. Civ. P. 56.

22 **II. STATEMENT OF FACTS**

23 **A. Response to Initial Vandalism Incident**

24 Around 3:21 p.m. on October 31, 2021, Vartan Stambulyan called 911 to
25 report that Michaelidis (his tenant) located at 6459 Matilija Avenue had locked
26 himself inside the unit and was causing himself bodily harm, damaging property,
27 was most likely on some type of narcotic, and had access to kitchen knives.
28 Defendant Officer Morales' Statement of Uncontested Facts (“UF”) 1. At 3:27

1 p.m. on October 31, 2021, LAPD Van Nuys Division Officers Morales, Benavides,
2 Burecu, McComas, Garcia, Castillo, Dreher, Madrigal, and Sergeant Balgemino
3 responded to a radio call of a vandalism suspect at 6459 Matilija Avenue. UF 2.

4 At 3:31 p.m., Officer Morales arrived at 6459 Matilija Avenue and spoke with
5 Stambulyan who reported the following: Michaelidis left the water and gas on, said
6 he was going to blow up the house, broke the sliding glass door and window, his
7 hands were bloody, he was trying to hurt himself and was on some type of drug, and
8 he had access to knives. UF 3. Officer Morales relayed to Officers Burecu and
9 McComas that Stambulyan was willing to press charges for vandalism and that
10 Michaelidis was heavily under the influence of an unknown substance. UF 4. Upon
11 the officers' arrival, they attempted to communicate with Michaelidis for more than
12 40 minutes from outside his residence. UF 5. Los Angeles Fire Department (LAFD)
13 and paramedics arrived at 6459 Matilija Avenue to provide medical treatment but
14 Michaelidis would not come out of his residence. UF 6.

15 To de-escalate the incident and gain compliance, the officers allowed a family
16 member to speak to Michaelidis from outside the residence. UF 7. Michaelidis threw
17 objects out the window, causing the family member and officers to retreat away
18 from the window. UF 8. Because Michaelidis refused to voluntarily come out of the
19 residence to receive medical aid, all the officers were instructed to tactically
20 disengage from the location and end contact. UF 9.

21 **B. 911 Calls Regarding Michaelidis Armed with Knives**

22 At 5:07 p.m., Stambulyan called 911 again to report that Michaelidis exited
23 his residence armed with two knives and was walking southbound on Matilija
24 Avenue. UF 10. At 5:09 p.m., Michaelidis used a knife to slash the tires on two cars
25 parked in the area and then stopped a driver going north on Matilija Avenue by
26 stabbing the car's hood. UF 11. At 5:10 p.m., William Ramos called 911 to report a
27 "guy with a knife popping tires" and "coming up to people" on Victory and Matilija.
28 UF 12. At 5:11 p.m., another neighbor called 911 to report a man running up and

1 down the street on Matilija with a “bloody” knife. UF 13. At 5:12 p.m., Vartan
2 Stambulyan informed LAPD that Michaelidis had two knives in his hands and was
3 stabbing cars on Matilija Avenue south of Victory Boulevard. UF 14.

4 **C. Officer Morales Requested Less-Lethal Options**

5 The responding officers’ Digital In-Car Video Systems (DICVS) and their
6 Body Worn Video (BWV) record the officers’ encounter with Michaelidis on
7 Victory Boulevard. UF 15. At approximately 5:14 p.m., Officers Morales,
8 Benavides, Mattamira, Alvarez, Garcia, Castillo, Burecu and McComas come across
9 Michaelidis who is holding a knife in each hand and standing in the middle of
10 Victory Boulevard near Matilija Avenue. UF 16. Michaelidis appeared bloody and
11 was holding one knife about 13 inches in length and another knife blade about 9.5
12 inches in length. UF 17. At 5:14 p.m., Officers Benavides and Morales arrived at the
13 scene and positioned their police vehicle along the driver’s side of Officer
14 Mattamira’s police car; Officers Garcia and Castillo positioned their police car
15 along the passenger side. UF 18.

16 When Officer Morales arrived at the scene, he observed Michaelidis walking
17 towards Officers Mattamira and Alvarez. UF 19. Officer Morales immediately told
18 Officer Mattamira, who had her gun unholstered and pointed at Michaelidis, to “get
19 a 40, get a 40, get a 40.” UF 20. As Officer Mattamira grabbed her 40mm
20 Less Lethal Launcher (“40mm LLL”), Officer Morales repeatedly commanded
21 Michaelidis to stop and drop the knife. UF 21. LAPD officers may use the 40mm
22 LLL or the Beanbag Shotgun as a reasonable force option to control a suspect when
23 the suspect poses an immediate threat to the safety of the officers or others. UF
24 22. Michaelidis pointed in Officer Morales’ direction with his right forefinger, still
25 holding a knife by the handle. UF 23. Officer Morales repeatedly commanded
26 Michaelidis to drop the knife and told him he did not want to hurt him; other officers
27 also repeatedly instructed Michaelidis to drop the knife. UF 24. Officer Morales told
28 Officer Mattamira “if he takes a step, hit him with the 40.” UF 25.

1 Officer Morales and the other officers continued repeating commands for
2 Michaelidis to drop the knife. UF 26. Officer Morales then informed the officers, “I
3 got lethal,” designating himself as Designated Cover Officer (DCO). UF 27.
4 Michaelidis stood facing the officers holding both knives and pointing back and
5 forth in the officers’ direction while the officers continued to repeat their commands
6 for him to drop the knife. UF 28.

7 Michaelidis refused to drop the knives and pointed at the officers while
8 making unintelligible statements. UF 29. Michaelidis then started walking
9 backwards, and Officer Morales advised the officers, “one person talk” for giving
10 commands. UF 30. Michaelidis walked backwards, placed his palms together and
11 appeared to be praying while holding the knives between his palms with the blades
12 pointed down. UF 31. Michaelidis then dropped the knife in his right hand but held
13 the remaining knife at his chest. UF 32. Officer Morales stated, “One down, he has
14 another one in his hand.” UF 33. Officer Castillo attempted to communicate with
15 Michaelidis, who appeared to understand English, but he was not complying with
16 her commands that he drop the other knife. UF 34.

17 Michaelidis dropped to his knees, still holding the other knife. Officer Castillo
18 continued to order him to drop the knife. UF 35. Michaelidis, while on his knees and
19 holding a knife in his right hand, pointed at his left wrist and repeatedly asked,
20 “What time?” UF 36. Officer Morales requested “get an RA [Rescue Ambulance] to
21 standby” as Michaelidis stayed on his knees. UF 37. Officer Morales told
22 Michaelidis “We got help on the way,” and Michaelidis is heard saying “Amen”.
23 UF 38.

24 D. **Michaelidis Posed an Immediate Threat**

25 Michaelidis then pointed his right forefinger in the officers’ direction, going
26 back and forth, and stood up from kneeling on the ground. UF 39. Michaelidis took
27 three steps towards the officers, still holding a knife in his right hand. UF 40. He
28 used his right hand to point at each of the officers as he counted them aloud in

1 English. UF 41. During Officer Morales' initial encounter with Michaelidis at the
2 residence, Michaelidis responded to the officers in English; Officer Morales
3 believed Michaelidis understood basic English. UF 42.

4 Michaelidis then took several steps back and to his left, transferred the knife
5 to his left hand and with his right hand made a cross-body motion by pointing to his
6 head, to his abdomen, and then from his left shoulder to his right shoulder just
7 below his neckline. UF 43. Officer Morales perceived Michaelidis' gesture as a slit-
8 your-neck type of motion. UF 44. As Michaelidis advanced, he used his right hand
9 to point at Officer Castillo while the knife was in his left hand. UF 45. Officer
10 Morales yelled, "Hey, stop right there! Don't do it," but Michaelidis did not comply
11 and kept advancing towards the officers while holding the knife in his left hand and
12 pointing at the officers in front of him with his right hand. UF 46.

13 Officer Morales believed the other officers with less lethal force options
14 would use less lethal force to stop Michaelidis from advancing any further as he
15 took his first, second, third, fourth and fifth steps towards Officers Castillo, Garcia,
16 and Alvarez, closing the distance between them. UF 47. Officer Morales believed
17 that the other officers would deploy less lethal options to stop Michaelidis from
18 advancing. UF 48.

19 As Michaelidis took his sixth step toward Officers Castillo, Garcia, and
20 Alvarez, four officers used force nearly simultaneously to stop Michaelidis from
21 advancing any further. UF 49. Officer Morales' decision to use lethal force was
22 based on the fact that the other officers did not use their less lethal force options
23 earlier to stop Michaelidis from advancing any further, and thus, Michaelidis posed
24 an immediate threat to Officers Castillo, Garcia, and Alvarez by continuing to close
25 the distance between them and refusing commands to stop. UF 50.

26 Officer Mattamira perceiving Michaelidis as an immediate threat discharged
27 her 40 mm LLL, which is what she had in hand at that time. UF 51. Officer Castillo
28 perceiving Michaelidis as an immediate threat discharged her beanbag shotgun,

1 which is what she had in hand at that time. UF 52. Officer Morales estimated that
2 Michaelidis came within 10 feet of Officer Castillo before he fired one round from
3 his handgun at Michaelidis' center mass, followed by a second round fired at the
4 same area. UF 53. Officer McComas perceiving Michaelidis as an immediate threat
5 discharged his 40mm LLL, which is what he had in hand at that time. UF 54. After
6 being struck by lethal and less-lethal munitions, Michaelidis stopped advancing and
7 fell to the ground. UF 55. Officers Garcia, Castillo, Alvarez, Mattamira, and
8 McComas immediately formed an arrest team and approached Michaelidis. UF 56.

9 After Michaelidis was handcuffed, officers began rendering medical aid,
10 including CPR, until they were relieved by LAFD. UF 57. Toxicology evidence
11 demonstrates that Michaelidis had Methamphetamine in his system at the time of the
12 incident. UF 58.

13 **III. LEGAL STANDARD**

14 Summary judgment is appropriate when the moving party establishes by
15 admissible trial evidence that there is no genuine issue as to any material fact and
16 the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56. The
17 moving party has the initial burden of production to establish the absence of a
18 genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323-24
19 (1986). The moving party may satisfy its burden by showing “that there is an
20 absence of evidence to support the nonmoving party’s case.” *Id.*, at 325. Only
21 genuine disputes over facts that may affect the outcome of the lawsuit will properly
22 preclude entry of summary judgment. *Anderson*, 477 U.S. at 248.

23 Moreover, a summary motion is properly granted where there is video
24 recording of the incident from which no reasonable jury could find that a defendant
25 used an unreasonable amount of force. *Scott*, 550 U.S. at 380.

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1 **IV. PLAINTIFFS CANNOT CARRY THEIR BURDEN OF**
2 **ESTABLISHING ANY VIABLE FEDERAL CLAIM**

3 **A. Michaelidis Posed an Immediate Threat**

4 The uncontested evidence, which includes recorded 911 calls, video
5 surveillance, the officers' BWV and DICVS from a police car, show the following:

- 6 • At 3:31 p.m., Officer Morales arrived at 6459 Matilija Avenue and
7 learned from Vartan Stambulyan that Michaelidis locked himself inside
the unit, was trying to hurt himself, said he was going to blow up the
house, was on some type of drug, and had access to knives. UF 4.
- 8 • Between 5:07 p.m. to 5:11 p.m., at least three individuals called 911 to
9 report Michaelidis roaming around with bloody knives, stabbing tires
and a moving car. UF 10-14.
- 10 • At 5:14 p.m., Officer Morales observed Michaelidis walking towards
11 Officers Mattamira and Alvarez, Officer Morales immediately told
12 Officer Mattamira, who had her gun unholstered and pointed at
Michaelidis, to “*get a 40, get a 40, get a 40, get a 40.*” UF 15-20.
- 13 • Michaelidis refused to comply with the officers’ repeated commands to
14 drop the knives. UF 22-24. Officer Morales told Officer Mattamira “*if*
he takes a step, hit him with the 40.” UF 25. At one point, Michaelidis
15 went down on his knees and Officer Morales instructed, “*get an RA*
[Rescue Ambulance] to standby.” UF 37.
- 16 • After Michaelidis stood up from kneeling, he transferred the knife
17 blade to his left hand and started advancing toward the officers. Officer
18 Morales yelled, “*Hey, stop right there! Don’t do it,*” but Michaelidis
19 did not comply. UF 43-46.
- 20 • The other officers did not use less-lethal force to stop Michaelidis from
21 advancing as he took his first, second, third, fourth and fifth steps
22 towards Officers Castillo, Garcia, and Alvarez. UF 47.
- 23 • When Michaelidis took his sixth step toward Officers Castillo, Garcia,
24 and Alvarez, Officer Morales perceived Michaelidis to be an immediate
25 threat and used lethal force to stop him from advancing any further.
26 Officers Mattamira, Castillo and McComas also deployed less-lethal
27 munitions nearly simultaneously.

28 At minimum, Michaelidis committed crimes under Cal. Pen. Code § 594
(vandalism), Cal. Pen. Code § 415 (disturbing the peace), and Cal. Pen. Code §
417(a) (brandishing of a deadly weapon)². Michaelidis went from vandalizing his

² See also, e.g., *Estate of Hernandez v. City of Los Angeles*, 2021 U.S. Dist. LEXIS

1 own rental unit to stabbing tires and a moving car with two bloody knives. UF 11.
2 911 calls from *three* different witnesses underscored the urgent need for police
3 officers to detain an armed, unpredictable suspect. Under the totality of the
4 circumstances, Officer Morales reasonably construed Michaelidis' acts to constitute
5 serious criminal conduct, and the fact that Michaelidis refused to drop the knife
6 while purposefully advancing towards the officers made him an immediate threat to
7 the officers' safety.

8 **B. Officer Morales' Use of Force was Objectively Reasonable**

9 The use of force must be analyzed under the Fourth Amendment and its
10 "reasonableness" standard. *Smith v. City of Hemet*, 394 F.3d 689, 700 (9th Cir.
11 2005); *see also Graham*, 490 U.S. at 395. "The 'reasonableness' of a particular use
12 of force must be judged from the perspective of a reasonable officer on the scene,
13 rather than with the 20/20 vision of hindsight." *Id.*, at 396-397. The inquiry is an
14 objective one: "The question is whether the officers' actions are 'objectively
15 reasonable' in light of the facts and circumstances confronting them." *Id.*, at 396.
16 Moreover, "[t]he Constitution is not blind to the fact that police officers are often
17 forced to make split-second judgments." *City and County of San Francisco v.
18 Sheehan*, 135 S. Ct. 1765, 1775 (2015).

19 "To be reasonable is not to be perfect, and so the Fourth Amendment allows
20 for some mistakes on the part of government officials, giving them fair leeway for
21 enforcing the law in the community's protection." *Heien v. North Carolina*, 135 S.
22 Ct. 530, 536 (2014). Thus, any calculus of reasonableness must embody allowance
23 for the fact that officers must make these split-second judgments "in circumstances
24 that are tense, uncertain, and rapidly evolving." *Graham*, 490 U.S. at 396-397; *see*
25 *also Ryburn v. Huff*, 132 S. Ct. 987, 991-992 (2012). "A reasonable use of deadly
26 force encompasses a range of conduct, and **the availability of a less intrusive**

27
28 155185 at *9 (C.D. Cal. Aug. 2, 2021).

1 **alternative will not render conduct unreasonable.” *Wilkinson v. Torres*, 610 F.3d**

2 546, 551 (9th Cir. 2010)(Emphasis added).

3 An officer is justified in using deadly force where a suspect threatens officers
4 with a weapon. *Smith*, 394 F.3d at 704 (“where a suspect threatens an officer with a
5 weapon such as a gun or a knife, the officer is justified in using deadly force”).
6 Established precedent regarding an officer’s use of force in response to knife-
7 wielding citizens demonstrate the reasonableness of Officer Morales’ actions in this
8 case. *See, e.g., R.E. v. City of Long Beach*, 2022 U.S. Dist. LEXIS 118125 (C.D.
9 Cal. July 5, 2022) (Court granted summary judgment on all of plaintiffs’ federal and
10 state law claims stemming from lethal force used on erratic suspect wielding knife
11 on freeway threatening to harm himself.); and *Estate of Hernandez v. City of Los
12 Angeles*, 2021 U.S. Dist. LEXIS 155185 (Court granted summary judgment on all of
13 plaintiffs’ federal and state law claims stemming from lethal force used on drug-
14 influenced suspect wielding knife on officer after being involved in a traffic
15 collision.)

16 Officer Morales’ actions were similarly objectively reasonable, particularly as
17 Officer Morales was informed that Michaelidis was “heavily under the influence of
18 an unknown substance.” This information combined with Michaelidis refusing to
19 comply with commands to drop the knife and continuing to close the distance,
20 indicated to Officer Morales that Michaelidis posed an immediate threat. In *Estate
21 of Hernandez v. City of Los Angeles*, Hernandez – like Michaelidis – brandished a
22 knife, advanced quickly towards an officer who said “drop the knife”, before being
23 fatally shot. The *Hernandez* Court found:

24 Indeed, the Ninth Circuit has rejected this distance-related argument,
25 finding that a suspect who is 55 feet away can still pose an imminent
26 threat because he can cover the distance in matter of seconds. *See
27 Watkins v. City of San Jose*, No. 15-CV-05786-LHK, 2017 U.S. Dist.
LEXIS 68648, 2017 WL 1739159, at *10 (N.D. Cal. May 4, 2017),
aff’d sub nom. *Buchanan v. City of San Jose*, 782 F. App’x 589 (9th Cir.

1 2019) (“Although the officers may have been in more danger if the
2 officers had waited for Decedent to advance closer to the officers, the
3 pace of Decedent’s advance and his failure to follow direct commands
4 to drop the knife and get on the ground indicate that the officers had
5 probable cause to believe that the suspect pose[d] a significant threat of
6 death or serious physical injury to the officer[s].”) (citation omitted).

7 *Id.*, at 12-13.

8 The facts in *Blanford v. Sacramento County*, 406 F.3d 1110 (9th Cir. 2005)
9 are also instructive. In *Blanford*, officers were called to investigate calls of a man
10 (later identified as Blanford) walking down the street wearing a ski mask and
11 brandishing a civil war era sword. *Id.*, at 1112. The officers saw Blanford and
12 yelled to have the man drop the sword, but the man never responded. *Id.*, at 1112-
13. The officers continued to follow Blanford as he approached a home and tried to
14 enter it. *Id.*, at 1113. When Blanford ignored the officers’ commands, the officers
15 fired at Blanford until he fell to the ground. *Id.*, at 1113-14.

16 In granting summary judgment, the Court concluded that from the perspective
17 of a reasonable officer, “the deputies had cause to believe that Blanford posed a
18 serious danger to themselves and to anyone in the house or yard that he was intent
19 upon accessing, *because he failed to heed warnings or commands and was armed*
20 *with an edged weapon that he refused to put down.*” *Id.*, at 1116. (Italics added.)

21 Officer Morales’ actions were likewise objectively reasonable, as Michaelidis
22 was clearly a threat to the officers and the public. Officer Morales was not expected
23 to allow Michaelidis to get within arms-length of stabbing an officer before stopping
24 him. *Wilkinson*, 610 F.3d at 551.

25 The reasonableness of the use of force turns largely on whether the officer
26 reasonably believed that a suspect posed an immediate threat to the safety of the
27 officer or others. *See Smith*, 394 F.3d at 702; *Isayeva v. SacSheriff’s Dept.*, 872 F.3d
28 938, 947 (9th Cir. 2017). Deadly force is reasonable where probable cause exists to
believe the suspect poses a significant threat of death or serious injury. *Tennessee v.*

1 *Garner*, 471 U.S. 1, 3 (1985). If the officers used deadly force while the suspect
2 posed an immediate threat of death or serious bodily harm to the officers or others,
3 there was no violation of the suspect's rights under 42 U.S.C. § 1983. *Graham*, at
4 388, 396.

5 Any officer in Officer Morales' position would reasonably conclude that
6 when Michaelidis advanced toward the officers, brandishing a knife and ignoring
7 commands, he posed an immediate threat. This is further supported by the fact that
8 Officers Mattamira and McComas both discharged their 40mm LLLs and Officer
9 Castillo discharged her beanbag shotgun nearly simultaneously. All four officers
10 believed Michaelidis posed an immediate threat and acted to stop the threat by using
11 the force option immediately available to them at the time the threat was perceived.
12 To transition to another force option would have created a potential deadly delay for
13 the officers. Officer Morales was required to make a split-second judgment in this
14 "tense, uncertain, and rapidly evolving" situation where an individual, acting
15 erratically, was aggressively advancing toward his fellow officers, ignoring
16 commands to drop the knife. Under these facts, the force was reasonable.

17 **C. Officer Morales is Entitled to Qualified Immunity**

18 Although Officer Morales' actions were objectively reasonable, he is further
19 protected by the qualified immunity doctrine and similar state law immunities.
20 Qualified immunity shields government officials from liability insofar as their
21 conduct does not violate clearly established statutory or constitutional rights of
22 which a reasonable person would have known. *Harlow v. Fitzgerald*, 457 U.S. 800,
23 818 (1982). In analyzing whether qualified immunity applies, a Court must address
24 two questions: (1) did the defendant's conduct violate a constitutional right, and (2)
25 was the right at issue clearly established, such that a reasonable officer would have
26 understood his conduct to be improper. *Scott*, 550 U.S. at 377 (citation omitted).

27 To be clearly established, a right must be sufficiently clear that every
28 reasonable official who violates that right would have understood that his conduct

1 was unlawful. *Taylor v. Barkes*, 135 S. Ct. 2042, 2044 (2015). There need not be a
2 case directly on point, but existing precedent must place the statutory or
3 constitutional question “beyond debate.” *Ashcroft v. al-Kidd*, 563 U.S. 731 (2011).
4 “Clearly established law” is not to be defined at a high level of generality, for
5 qualified immunity is no immunity at all if “clearly established law” can simply be
6 defined as “the right to be free from unreasonable searches and seizures.” *Sheehan*,
7 135 S. Ct. at 1775-76.

8 The relevant inquiry on qualified immunity is whether it would have been
9 clear to a reasonable officer that his conduct was unlawful. *Brosseau v. Haugen*, 543
10 U.S. 194, 199 (2004)(citation omitted). “Qualified immunity gives government
11 officials breathing room to make reasonable but mistaken judgments about open
12 legal questions.” *al-Kidd*, 131 S. Ct. at 2085. Qualified immunity protects “all but
13 the plainly incompetent or those who knowingly violate the law.” *Malley v. Briggs*,
14 475 U.S. 335, 341 (1986). It is plaintiff’s burden to prove that the right allegedly
15 violated was clearly established at the time. *Davis v. Scherer*, 468 U.S. 183, 197
16 (1984).

17 “[T]he clearly established right must be defined with specificity.” *City of*
18 *Escondido v. Emmons*, 139 S. Ct. 500, 503 (2019). “This Court has repeatedly told
19 courts . . . not to define clearly established law at a high level of generality.” *Id.*,
20 citing *Kisela v. Hughes*, 138 S. Ct. 1148, 1152 (2018). “An officer cannot be said to
21 have violated a clearly established right unless the right’s contours were sufficiently
22 definite that any reasonable official in the defendant’s shoes would have understood
23 that he was violating it.” *Emmons*, 139 S. Ct. at 503, quoting *Kisela*, 138 S. Ct. at
24 1152-1153.

25 Although there are no cases that squarely govern the specific facts of this case
26 (which by itself confirms Officer Morales’ entitlement to qualified immunity),
27 *Kisela* and *Sheehan* provide guidance.

28 In *Kisela*, officers responded to a call that a woman was hacking a tree with a

1 large kitchen knife. *Kisela*, at 1151. While Chadwick was talking to the officers,
2 Hughes then came out of the house, brandishing a large kitchen knife. *Id.* Hughes
3 did not drop the knife or even acknowledge the officers' presence. *Id.* Concerned for
4 Chadwick, one of the officers (Kisela) then fired four times at Hughes through the
5 fence. *Id.*

6 Without considering whether the officer's actions were unlawful, the
7 Supreme Court found that the officer was nonetheless entitled to qualified
8 immunity. In reversing the Ninth Circuit, the Supreme Court noted that "the most
9 analogous Circuit precedent favors *Kisela*," citing to *Blanford*. *Id.*, at 1153. The
10 High Court went on to state that based on the decision in *Blanford* and the great
11 similarities in fact between the cases, "a reasonable officer could have believed [that
12 the use of deadly force did not violate the Fourth Amendment] was true in the
13 instant case." As several cases, including *Blanford* and *Kisela* depict similar facts,
14 where there was no violation of rights found, it was reasonable for Officer Morales
15 to conclude that his actions were similarly lawful.

16 In *Sheehan*, officers were called to a group home where a resident (Sheehan)
17 began acting erratically and threatened to kill her social worker and closed herself in
18 her room. *Sheehan*, at 1770. Upon arrival, the officers entered Sheehan's room,
19 where Sheehan immediately grabbed a knife and threatened to kill the officers. *Id.*
20 The officers retreated and closed the door again to re-assess the situation. *Id.*, at
21 1770-71. Concerned that Sheehan could escape and harm someone else, the officers
22 re-entered the room and used pepper spray to try and subdue Sheehan. *Id.*, at 1771.
23 When that proved ineffective, the officers then shot Sheehan multiple times. *Id.*
24 Both the Ninth Circuit and Supreme Court agreed that the officers' use of force in
25 entering Sheehan's room the second time was reasonable. *Sheehan*, at 1775.

26 Even if judged in hindsight and had Officer Morales made a mistake or
27 misjudged the actual threat that Michaelidis posed, he is nonetheless entitled to
28 qualified immunity. Significantly, there is no case law squarely governing the facts

1 of this case to indicate that Officer Morales' actions were unlawful. Conversely, as
2 demonstrated in *Blanford, Kisela* and *Sheehan*, Officer Morales could have
3 undoubtedly concluded his actions were lawful; at the time he made the split-second
4 decision to use lethal force, the other officers had not yet deployed less lethal-force
5 to stop Michaelidis from getting any closer. Thus, Officer Morales reasonably
6 believed he *had to act* to stop Michaelidis from potentially knifing an officer.³

7 **D. Plaintiffs' Denial of Medical Care Claim is Without Merit**

8 Officers must seek the necessary medical attention for a detainee when he or
9 she has been injured while being apprehended by either promptly summoning the
10 necessary medical help or by taking the injured detainee to a hospital. *Tatum v. City*
11 & *Cty. of San Francisco*, 441 F.3d 1090, 1098 (9th Cir. 2006) (holding that a police
12 officer who promptly summons the necessary medical assistance by requesting an
13 ambulance acted reasonably for purposes of the Fourth Amendment). An officer is
14 not required to provide what hindsight reveals to be the most effective medical care
15 for an arrested suspect. *Id.*, at 1098. An officer's duty to provide medical care to a
16 suspect can be fulfilled by promptly summoning the necessary medical help.
17 *Maddox v. Los Angeles*, 792 F.2d 1408, 1414-15 (9th Cir. 1986)(citation omitted).

18 The uncontested facts establish that Michaelidis was provided medical aid
19 and emergency medical personnel were immediately requested to respond after the
20 use of force incident. LAFD personnel were also waiting at Michaelidis' residence
21 during the initial vandalism incident to provide him medical treatment, but
22 Michaelidis refused to exit his residence. Michaelidis was not under arrest when he
23 locked himself inside his rental unit, and the Constitution did not require Officer
24 Morales to force an unwilling person to receive medical treatment. Accordingly,

25
26
27
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³ See *R.E. v. City of Long Beach*, 2022 U.S. Dist. LEXIS 118125 at *13 and *Estate of Hernandez v. City of Los Angeles*, 2021 U.S. Dist. LEXIS 155185 at *13, citing *Buchanan v. City of San Jose*, 782 F. App'x 589, 592 (9th Cir. 2019) (unpublished).

1 Plaintiffs have no claim for denial of medical care against Officer Morales.

2 **E. Plaintiffs' Claim for Denial of Familial Relationship also Fails**

3 To prove their claim for violation of their Fourteenth Amendment rights,
4 Plaintiffs, particularly Plaintiff Vardou Michaelidou, have to prove that: (1) that the
5 parent had assumed parental responsibility by daily parental association or by
6 consistent contact that demonstrates participation in and responsibility for the daily
7 activities of the child; (2) that the conduct of Officer Morales “shocks the
8 conscience” by acting with a purpose to harm unrelated to legitimate law
9 enforcement objectives; and (3) that the conduct of Officer Morales was the cause of
10 Michaelidis' death. *Wilkinson v. Torres*, 601 F.3d 546, 554 (9th Cir. 2010); *Porter v.*
11 *Osborne*, 546 F.3d 1131, 1136-37 (9th Cir. 2008); *Moreland v. Las Vegas Met.*
12 *Police Dept*, 159 F.3d 365, 372-72 (9th Cir. 1998); *Wheeler v. City of Santa Clara*,
13 894 F.3d 1046 (9th Cir. 2018); *Lewis v. Sacramento County*, 98 F.3d 434, 441 (9th
14 Cir. 1996); *Byrd v. Guess*, 137 F.3d 1126, 1134 (9th Cir. 1998).

15 The courts have held that biology alone is not sufficient to establish a
16 Fourteenth Amendment familial relationship claim. The Fourteenth Amendment
17 requires that there was a consistent involvement and enduring relationship between
18 the parent and child and that there was “emotional attachments that derive[d] from
19 the intimacy of daily association”. *Wheeler, supra*, 894 F.3d at 1057-59.

20 Further, a claim against an officer for substantive due process rights under the
21 Fourteenth Amendment considers the subjective intent of the officer. *A. D. v. State*
22 *of Cal. Highway Patrol*, 712 F.3d 446, 453 (9th Cir. 2012). In circumstances with
23 “constant flux” that require officers to make “snap judgments”, substantive due
24 process violations exist only when the officer “shocks the conscience” or intends to
25 “harm, terrorize or kill” the suspect without a legitimate law enforcement objective.
26 *Porter v. Osborn*, 546 F.3d 1131, 1140-1141 (9th Cir. 2008). “Legitimate law
27 enforcement objectives [include] arrest, self-defense, or the defense of others.”
28 *Fewell v. California*, 2017 WL 6043080, at *6 (C.D. Cal. Apr. 11, 2017). Summary

1 judgment for the officer is appropriate when there is no evidence of an ulterior
2 motive. *Gonzalez v. City of Anaheim*, 747 F.3d 789, 798-799 (9th Cir. 2014).

3 Officer Morales' use of force was solely motivated by the need to protect the
4 officers. *Gonzalez*, 747 F.3d at 798. The fact that Officer Morales instructed another
5 officer to use less lethal to stop Michaelidis is proof that Officer Morales did not
6 intend to use lethal force unless and until Michaelidis posed an immediate threat.
7 There is no substantive due process violation under these circumstances. UF 20, 25.

8 Michaelidou, Michaelidis' mother who lives in Greece, who is not the heir or
9 success-or-interest to Michaelidis, may only assert any claims in this case by
10 demonstration of a relationship entitling her to relief under the Fourteenth
11 Amendment. Plaintiff cannot meet that burden. Michaelidou had not lived with her
12 son since 2001. UF 63. Between 2014 and 2021, Michaelidou saw Michaelidis only
13 twice in-person, once in 2016 and once in 2018. UF 63. The last time Michaelidou
14 spoke to Michaelidis was more than a week prior to October 31, 2021. UF 63. And,
15 Michaelidou did not receive any financial support from Michaelidis, and she did not
16 provide him with any financial support. UF 64. Thus, there was no intimate daily
17 parental association or consistent contact in a manner that demonstrated a parental
18 responsibility or an "enduring relationship" between them.

19 **V. PLAINTIFFS' STATE LAW CLAIMS SHOULD ALSO BE**
20 **DISMISSED**

21 **A. Plaintiffs' Battery Claim Fails**

22 A battery claim is a state law counterpart to a federal 42 U.S.C. section 1983
23 claim of excessive use of force because, in both, a plaintiff must prove that the
24 peace officer's use of force was unreasonable. *Munoz v. City of Union City*, 120
25 Cal.App.4th 1077, 1102 (2004); *Brown v. Ransweiler*, 171 Cal.App.4th 516, 526-28
26 (2009). If conduct is objectively reasonable so as to defeat a federal section 1983
27 claim, said conduct also defeats a state law claim of battery. An officer is not
28 similarly situated to the ordinary battery defendant, rather, he is entitled to use even

1 greater force than might be in the same circumstances required for self-defense.
2 *Brown*, 171 Cal.App.4th at 527.

3 Officer Morales is not liable for battery if his actions were objectively
4 reasonable based on the facts and circumstances confronting him, a test highly
5 deferential to an officer's need to protect himself and others. *Id.*, at 527-528.
6 Michaelidis escalated his conduct from vandalizing his own rental unit to roaming
7 the public streets armed with two knives. When Michaelidis advanced toward the
8 officers, ignoring repeated commands, Officer Morales' actions in stopping the
9 threat were not only reasonable, they were necessary to protect the officers.

10 **B. Plaintiffs' Negligence Claim also Fails**

11 “[I]n order to prove facts sufficient to support a finding of negligence, a
12 plaintiff must show that [the] defendant had a duty to use due care, that he breached
13 that duty, and that the breach was the proximate or legal cause of the resulting
14 injury.” *Hayes v. County of San Diego*, 57 Cal.4th 622, 629 (2013)(citation
15 omitted). The California Supreme Court “has long recognized that peace officers
16 have a duty to act reasonably when using deadly force.” *Hayes*, 57 Cal.4th at 629.
17 As the Court explained, “[t]he reasonableness of an officer's conduct is determined
18 in light of the totality of circumstances.” *Id.*, at 629-630. Officers are afforded
19 discretion in performing their duties. *Id.*, at 632.

20 Police officers act under color of law to protect the public interest and are
21 charged with acting affirmatively and using force as part of their duties, because
22 “the right to make an arrest or investigatory stop necessarily carries with it the right
23 to use some degree of physical coercion or threat thereof to effect it.” *Munoz*, 120
24 Cal.App.4th at 1109. Thus, “an officer may reasonably use deadly force when he or
25 she confronts an armed suspect in close proximity whose actions indicate an intent
26 to attack.” *Id.*, at 1102.

27 The test for determining whether a homicide was justifiable under Cal. Penal
28 Code § 196 “is whether the circumstances ‘reasonably create[d] a fear of death or

1 serious bodily harm to the officer or to another.”” *Brown*, 171 Cal.App.4th at 533.
2 While police officers have a duty to act reasonably when using deadly force, they
3 are still authorized to employ such force where necessary and appropriate. *Hayes*, 57
4 Cal.4th at 629. In determining whether an officer breached the duty of care,
5 California courts apply the same standards applicable in federal cases. Accordingly,
6 the ““reasonableness’ of a particular use of force must be judged from the
7 perspective of a reasonable officer on the scene, rather than with the 20/20 vision of
8 hindsight.” *Id.*, at 632, citing *Graham*, 490 U.S. at 396. The reasonableness standard
9 in state court also affords officers discretion to accommodate the difficulty of their
10 task. *Id.* As stated above, Officer Morales acted reasonably given how the situation
11 evolved. Initially, Michaelidis was breaking items in his own rental unit and
12 refusing to come out. Michaelidis later exits his residence armed with two large
13 knives wreaking havoc, prompting scared neighbors to call 911.

14 Further, Officer Morales’ actions are immune from liability under California
15 Government Code §§ 820.2, 821.6 and 845.8. Under section 820.2, although Officer
16 Morales’ actions were reasonable, they were also discretionary such that he cannot
17 be held liable for his discretionary use of force to subdue Michaelidis. *Hayes*, 57
18 Cal.4th at 632. Under section 821.6, Officer Morales is entitled to immunity to the
19 extent that his knowledge or investigation into the subject incident was in any way
20 negligent. *See, e.g., Amylou R. v. Cnty of Riverside*, 28 Cal.App.4th 1205, 1209-
21 1210 (1994). Officer Morales’ actions are also immune under section 845.8. *See*
22 *Hooper v. City of Chula Vista*, 212 Cal.App.3d 442, 453-54 (1989) (applying
23 section 845.8 to the claims of a fatally injured subject resisting arrest).

24 **C. Plaintiffs’ Bane Act Claim Fails as a Matter of Law**

25 “The essence of a Bane Act claim is that the defendant, by the specified
26 improper means (i.e., ‘threats, intimidation or coercion’), tried to or did prevent the
27 plaintiff from doing something he or she had the right to do under the law or to force
28 the plaintiff to do something that he or she was not required to do under the law.”

1 *Shoyoye v. Cnty. of Los Angeles*, 203 Cal.App.4th 947, 955-956 (2012).

2 To establish a claim under California Civil Code § 52.1(b), a plaintiff must
3 allege facts showing that defendants attempted or did interfere with plaintiff's state
4 or federal constitutional rights by threatening or committing violent acts. *Austin B.*
5 *Escondido Union School District*, 149 Cal.App.4th 860 (2007). There must be
6 allegations and evidence that Defendants threatened, intimidated or coerced
7 Michaelidis. *Jones v. Kmart Corp.*, 17 Cal.4th 329, 334 (1998) (characterizing §
8 52.1 as requiring "interference with a legal right, accompanied by a form of
9 coercion").

10 As confirmed by the California Supreme Court in *Venegas v. County of Los*
11 *Angeles*, 32 Cal.4th 820 (2004), the Bane Act "does not extend to all ordinary tort
12 actions because its provisions are limited to threats, intimidation, or coercion that
13 interferes with a constitutional or statutory right." *Id.*, at 843. The Court also
14 confirmed that a plaintiff asserting a claim for violation of the Bane Act is required
15 to further plead and prove that the alleged constitutional violation was
16 "accompanied by the requisite threats, intimidation, or coercion." *Id.* In *Cornell v.*
17 *City and County of San Francisco*, 17 Cal.App.5th 766 (2017), the California Court
18 of Appeal explained that "the egregiousness required by Section 52.1 is tested by
19 whether the circumstances indicate the [person] had a **specific intent** to violate the
20 [plaintiff's] right." *Id.*, at 801-802 (emphasis added); *see also, Lyall v. City of Los*
21 *Angeles*, 807 F.3d 1178, 1196 (9th Cir. 2015) (Bane Act violation requires
22 allegations of threats, coercion, or intimidation beyond the coercion inherent in the
23 conduct that forms the basis of the plaintiff's Section 1983 claim).

24 In *Reese v. County of Sacramento*, 888 F.3d 1030, 1044-45 (9th Cir. 2018),
25 the Ninth Circuit determined that because the objective reasonableness test (citing
26 *Graham*) does not consider the officer's underlying intent or motivation, an
27 excessive force violation of the Bane Act requires that "the defendants 'intended not
28 only the force, but its unreasonableness, its character as 'more than necessary under

1 the circumstances.”” *Id.* at 1045. Evidence simply showing the officer’s conduct
2 amounted to a constitutional violation under an objectively reasonable standard is
3 insufficient. *Id.*, at 1045.

Officer Morales did not interfere with Michaelidis' legal rights by the use of threats, intimidation or coercion. Officer Morales' actions were entirely reasonable as his sole intention in using force was to protect officers from an advancing, non-compliant suspect wielding a knife. Plaintiffs' Bane Act claim fails as a matter of law.

* * *

10 Plaintiffs have failed to demonstrate a viable state claim. However, if this
11 Court concludes that Plaintiffs have demonstrated an issue of fact, Officer Morales
12 requests that this Court exercise supplemental jurisdiction over those claims in the
13 interest of efficiency and judicial economy. *Satey v. JPMorgan*, 521 F.3d 1087,
14 1090-91 (9th Cir. 2008).

VI. CONCLUSION

16 The use of lethal force by Officer Morales was not only objectively
17 reasonable, but was absolutely necessary to protect the officers from Michaelidis.
18 Accordingly, Officer Morales respectfully requests his Motion for Summary
19 Judgment be granted in its entirety.

20 | DATED: June 16, 2023

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L.R. 11-6.2. Certificate of Compliance

2 The undersigned, counsel of record for Defendant OFFICER BRYAN
3 MORALES certifies that this brief contains **6978** words, which complies with the
4 word limit of L.R. 11-6.1.

DATED: June 16, 2023

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